



Montana Fish, Wildlife & Parks

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1400 South 19th Avenue
Bozeman, MT 59718

2 April 2002

To: Governor's Office, Todd O'Hair, State Capitol, Room 204, P.O. Box 200801, Helena, MT 59620-0801
Environmental Quality Council, State Capitol, Room 106, P.O. Box 201704, Helena, MT 59620-1704
Dept. of Environmental Quality, Metcalf Building, P.O. Box 200901, Helena, MT 59620-0901
Montana Fish, Wildlife & Parks:

Director's Office	Parks Division	Lands Section	FWP Commissioners
Fisheries Division	Legal Unit	Wildlife Division	Design & Construction

MT Historical Society, State Historic Preservation Office, P.O. Box 201202, Helena, MT 59620-1202

MT State Parks Association, P.O. Box 699, Billings, MT 59103

MT State Library, 1515 E. Sixth Ave., P.O. Box 201800, Helena, MT 59620

James Jensen, Montana Environmental Information Center, P.O. Box 1184, Helena, MT 59624

Janet Ellis, Montana Audubon Council, P.O. Box 595, Helena, MT 59624

George Ochenski, P.O. Box 689, Helena, MT 59624

Gallatin Cty Commissioners, Gallatin Cty Courthouse, 311 W. Main, Room 301, Bozeman MT 59715

Jerry DiMarco, P.O. Box 1571, Bozeman, MT 59771

Montana Wildlife Federation, P.O. Box 1175, Helena, MT 59624

Wayne Hurst, P.O. Box 728, Libby, MT 59923

Bob Raney, 112 S. 6th St., Livingston, MT 59047

Ladies and Gentlemen:

Attached is the decision notice for the Montana Grizzly Encounter, Inc. Environmental Assessment (EA). A Draft EA was prepared for the issuance of a Roadside Menagerie Permit for the Montana Grizzly Encounter, Inc. A public meeting was held in Bozeman on January 13, 2003, and public comments were accepted through January 20, 2003. A copy of those comments, accompanied by our responses, is attached.

As a result of public concerns expressed during the comment period, the Memorandum of Agreement has been significantly modified. The modified version is attached. Additionally, contingency plans for several situations have been added. These plans are also attached.

With the incorporation of the attached stipulations, FWP establishes that there are no significant impacts likely to result from this project. It is, therefore, my decision to approve the permit for the Montana Grizzly Encounter, Inc.

Questions regarding this decision notice should be directed to me at Montana Fish Wildlife & Parks, Region Three, 1400 South 19th Avenue, Bozeman, MT 59718, (406) 994-4042, or at pflowers@montana.edu.

Sincerely,

Patrick J. Flowers
Region Three Supervisor

Attachments

Park
Game Farm



Montana Fish, Wildlife & Parks

Region Three, Bozeman
2 April 2003

MONTANA GRIZZLY ENCOUNTER, INC. ENVIRONMENTAL ASSESSMENT DECISION NOTICE

Proposed Action

Montana Fish Wildlife & Parks proposes to proceed in the issuance of a Roadside Zoo and Menagerie permit for the Montana Grizzly Encounter Inc. The zoo will house up to three brown bears for public viewing. It will be situated on approximately three acres on the Bozeman Pass. The major features of the zoo will include:

- A ten-foot tall chain link perimeter fence;
- A building that will serve as a denning area, a caretaker's residence and a bear care area;
- An interior twelve-foot tall concrete wall including sections which will be deep moats;
- A visitor center;
- An enclosed pond;
- A ticket booth;
- A parking area; and,
- A circular driveway.

Montana Environmental Policy Act

FWP assessed the impacts of this proposal to the human and natural environments. These effects were disclosed in the Environmental Assessment to comply with the requirements of the Montana Environmental Policy Act (MEPA).

A 30-day comment period was open from December 20, 2002 through January 20, 2003. Public notification of the proposed action was facilitated with the distribution of legal notices printed in the Bozeman Daily Chronicle newspaper. In addition, the EA was posted on the FWP web page: <http://fwp.state.mt.us> and a public meeting was held in Bozeman on January 13, 2003.

Comments On Bozeman Pass Grizzly Bear Zoo

We received approximately 1100 comments on this proposal. Of this number, 100 were letters from the general public and 21 were oral comments received at the public meeting. Approximately 780 were form letters received by email and approximately 200 were the same form letter received by fax. These numbers are approximate because there was some overlap—some of the form letters were both emailed and faxed. The form letter mailing was sent in by a national animal welfare organization.

Of the comments received, all but three or four were opposed to the project. The letters of comment were all read and the individual points of contention were recorded. Each point of

contention was listed only once regardless of how many people listed it. The following is the list of these points and our response.

1. *There must be an EIS done on this project.*

RESPONSE: We do not believe, with the proposed stipulations in the Memorandum of Agreement, that there are any impacts that rise to the level of significant. An EIS is, therefore, not required.

2. *There must be a contingency plan for evacuating the bears in the event of a disaster, such as an earthquake, forest fire, train derailment, etc.*

RESPONSE: We have added such a plan to the list of stipulations.

3. *The zoo would block a migratory corridor.*

RESPONSE: Several respondents referred to a Yellowstone-to-Yukon migratory corridor that would be blocked by this facility. The Bozeman Pass does represent an area of connectivity between the north end of the Gallatin Mountain Range and the Bridger/Bangtail Mountains. The conservation of open space connectivity through this area is an important consideration as the Pass area continues to face rural residential development. The correct mechanism to address the maintenance of connectivity is the proposed planning and zoning district. Substantial residential development has already occurred in places along the Pass, with more anticipated. The development of this three-acre zoo is but a small fraction of what has already occurred in the area. The addition of this zoo is not likely to impede localized wildlife movement. The proposed zoning district will have a more significant impact on development patterns, which over time will have a greater impact on wildlife movement opportunities.

4. *Wild grizzly bears would be attracted to the site and hit by cars or trains or would attack local livestock or people.*

RESPONSE: There is no history of grizzly bear sightings in this area. Grizzlies do wander great distances and it is conceivable that one might come by. We have included several stipulations that we believe will minimize the attractiveness of the facility to other grizzlies. We are requiring a 12-foot concrete fence that will preclude wild bears from seeing the confined animals. We are requiring the sterilization of the bears so that estrus odor will not be a factor. We are requiring a second electrified chain link fence that will not allow wild bears to even approach the concrete interior fence. We are requiring that food and excrement be removed to alleviate odors. We are requiring bearproof dumpsters. In addition, we are requiring that the bears be confined to their inside dens during the night, when wild bears would be most likely to approach the fence. We believe that these precautions will reduce the attractiveness of the zoo to an acceptable level. The grizzly bear zoo in West Yellowstone, operating under similar restrictions, has had no problems with local wild grizzlies. It should be noted that they are situated in, arguably, the highest density grizzly population area in the state.

5. *Other species of wild animals would be attracted to the site and be struck by vehicles or become a nuisance.*

RESPONSE: The stipulations mentioned in #4 also apply here. Additionally, it should be noted that wild animals do not seek out grizzlies in the wild—most go out of their way to avoid them.

6. *The zoo would cause diseases to be spread to wild animals.*
RESPONSE: Grizzly bears have very few communicable viral or bacterial diseases. They are susceptible to several types of parasitic cestodes and nematodes. These are preventable through a regular program of anti-helminthic medication and regular veterinary care as required in the Memorandum of Agreement.
7. *The zoo would have odors from bear waste and food. More food and waste storage rules are needed.*
RESPONSE: We have added additional regulations regarding food and waste removal and storage to cover this concern. This includes a requirement to install bearproof dumpsters.
8. *A bus might be left in the parking lot with the engine running, causing a smell and making noise.*
RESPONSE: With any new commercial enterprise there will be an increase in traffic with the accompanying noise and exhaust fumes. We have no reason to feel that this facility will impact the area to a greater extent than other commercial sites.
9. *The staff should be "certified" wildlife handlers. They also should be trained in bear immobilization and firearms use.*
RESPONSE: We have checked with the American Zoo and Aquarium Association as well as several major zoos regarding this issue. There is currently no program of certification or licensing for zookeepers or wildlife handlers. Immobilization drugs may only be obtained under the direction of a licensed veterinarian. The veterinarian is responsible for instructing the user and seeing that the drugs are used in accordance with applicable laws. We have included the additional requirement that the staff be trained in the use of the firearms.
10. *There should be some sort of dismantling requirement in the event that zoo is abandoned.*
RESPONSE: We lack the authority to make this requirement.
11. *The zoo will be unattractive. It shouldn't be located in this rural setting.*
RESPONSE: We lack the authority to regulate.
12. *The zoo will attract other undesirable tourist attractions to the area.*
RESPONSE: We lack the authority to regulate.
13. *The zoo will give the area a bad image.*
RESPONSE: We lack the authority to regulate.
14. *Grizzly bears should not be kept in cages.*
RESPONSE: The legislature has authorized the permitting of zoos.
15. *The confinement area of the zoo is too small.*
RESPONSE: We contacted the American Zoo and Aquarium Association and several bear experts at large metropolitan zoos in response to this concern. They all felt that this zoo was not unreasonably small for three bears.
16. *The proposed area is residential and should remain so.*
RESPONSE: The area is currently unzoned and we lack the authority to regulate.

17. *People will mock and catcall the bears.*
RESPONSE: We lack the authority to regulate.
18. *There is a school 600 yards from the bears, placing children at risk.*
RESPONSE: We feel that the required design elements of the zoo are sufficient to prevent escapes.
19. *The laws regarding roadside zoos need to be changed to prevent this sort of thing.*
RESPONSE: We must process this application under the currently existing laws. Future changes in the law are a matter for the legislature.
20. *The zoo will not be educational. Trained bears will give the public the wrong perception of grizzlies.*
RESPONSE: The applicants are being required to provide accurate educational information to the public regarding wild bears and bear/human interactions in the field.
21. *The zoo will be an affront to the dignity of the bears.*
RESPONSE: We lack authority to regulate.
22. *The applicants should not have been allowed to begin construction before the permit was issued.*
RESPONSE: The permit we are considering is for the operation of a roadside zoo. It is not a building permit. Persons may build whatever they choose on private property without a permit from FWP. They cannot, however, begin operation of the zoo without the permit. The applicant was apprised of the fact that he was beginning construction at his own risk since the permit might be denied or restrictions might be imposed which are not compatible with previously completed construction.
23. *The zoo would block animal migration through the nearby I-90 underpass.*
RESPONSE: The local big game animals (black bears, moose, elk, and deer) currently cross the interstate at any point. They do not regularly use or require the underpass to get across the highway.
24. *The zoo would depreciate property values.*
RESPONSE: The effect of this project on local property values is speculative. It seems intuitive that if the sales of nearby homes and land were for residential use, there would be a negative effect on property values. If, however, this project spawned an interest in commercial development near the site, property values might actually increase. In any event, we lack the authority to deny the permit based on concerns for changes in property value on adjacent lands.
25. *Monitoring the zoo will cost the department (ultimately the sportsmen) money.*
RESPONSE: One of the duties of the FWP is to permit and routinely inspect a variety of commercial enterprises. This includes private fishponds, game farms, fur farms, taxidermists, shooting preserves, etc. They all cost more to administer than they produce in license fees, but we are still required by law to assume this responsibility.

26. *A bond should be required to insure proper upkeep of the zoo and to prevent weed introduction.*
RESPONSE: We lack the authority to regulate.
27. *The state is required to consult with the USFWS before issuing the permit because of the endangered status of the grizzly.*
RESPONSE: The only legal concern of the USFWS regarding the zoo is that the bears are not wild-born bears from the lower 48 States nor their offspring. The bears will be verified as captive born before introduction.
28. *Immobilization drugs need to be secured.*
RESPONSE: The use of immobilization drugs is regulated by law. The applicant will be allowed to use the drugs only under the direct supervision of a licensed veterinarian, who will be responsible for assuring the proper use and storage of the drugs.
29. *The zoo should be required to have trained educators.*
RESPONSE: The zoo will be required to disseminate accurate educational information. We lack the authority to impose educational requirements on the employees.
30. *Roadside zoos are notorious for abusing animals.*
RESPONSE: We understand that on the national level numerous instances of animal abuse have been reported at roadside zoos. It is for this reason that we are expending considerable effort to see that this zoo is permitted with guidelines that will preclude this possibility.
31. *Loud noise from the nearby trains will distress the bears.*
RESPONSE: It is probable that the bears may be initially startled by the noise of the train, but we believe they will soon become accustomed to the noise and that no long-term damage will result.
32. *The zoo would provide a good home for animals raised in captivity.*
RESPONSE: No comment required.
33. *Bears could escape and injure local residents, pets, or livestock.*
RESPONSE: We feel that the required design of the enclosure should be sufficient to keep the bears from escaping.
34. *The department should schedule regular evacuation drills for the animals.*
RESPONSE: The evacuation of the bears would consist of sedating the bears (if necessary) and placing them in mobile confinement units for removal. This is a relatively simple procedure that does not require repeated practice. The repetitive use of immobilization drugs can also present a health risk to the bears. The chance of ever having to evacuate the bears on an emergency basis is so small that we do not believe it is worth the added risk to the bears to conduct repeated drills.
35. *Smoking should be banned because of the dangers of second-hand smoke to the bears.*
RESPONSE: Since both the smoker and the bears are in an open outdoor setting and will be kept a considerable distance apart, we do not see this as a serious concern.

36. *Electric melting wires should be installed in the moats.*

RESPONSE: The applicant has indicated that he thinks he can use a snow blower to keep the moat free of snow. We are not sure whether or not this will work given the amount of snow and the drifting that occurs in that area during a normal winter. We, therefore, included in the regulations a provision that the bears cannot be brought into the outdoor arena unless all snow has been removed from the moat and the base of the interior fence. Since these provisions are in place, we really don't care how the snow is removed. We are willing to leave it up to the applicant to perfect a method that works, knowing that he can't open unless it is removed.

37. *There should be more regulations regarding the use of the rifle, pepper spray, and dart gun (all employees carry spray at all times, specific caliber restrictions, specific types of darts, etc.).*

RESPONSE: We have added a stipulation that all employees shall carry pepper spray. We have specified a large caliber rifle and feel confident the applicant can select an appropriate firearm. There are numerous types and brands of dart guns available, all of which work. The applicant will be working under the authority of a licensed veterinarian who can coach him on the proper equipment.

38. *Specifications should be listed for the dens.*

RESPONSE: We agree. Additional regulations regarding the denning facilities have been added.

39. *The biologist's comment at the public meeting that it would not be possible to determine changes in migration patterns caused by the zoo is grounds to deny the permit.*

RESPONSE: Animals move about for a variety of reasons. They can acquire some fairly predictable patterns and then suddenly change those patterns. People can theorize as to why it happened, but no one will really know. The mere fact that local animals may show some different movement patterns sometime after the introduction of a new structure in an area cannot be positively attributed to that structure. This inability to show that a relatively small (three-acre) facility caused a change in animal movements is not grounds to deny the permit.

40. *Pond and moat water pumped out of the zoo will be contaminated.*

RESPONSE: The major contaminant of the wastewater will be fecal coliform bacteria commonly found in all livestock operations. According to the Department of Environmental Quality, this type of facility would be classified as "non point source" and would not require a permit to discharge surface water. It was suggested that it might be advisable to use the water for irrigation inside the perimeter of the facility. We will, therefore, encourage the applicant to do this.

41. *The effect on surrounding property values can be determined by checking the property values of other areas where roadside zoos were introduced.*

RESPONSE: There are too many variables for this approach to be effective.

42. *Criminals may break in or attack the caretaker to obtain immobilization drugs.*

RESPONSE: Criminals can and do prey upon a variety of businesses. We cannot deny a permit based upon conjecture that a crime could take place.

43. *The department should delay the decision until the anticipated zoning ordinance is in place.*

RESPONSE: While there is no specific time limit on the processing of an application for any commercial permit, we are expected to complete the process in a timely manner. We cannot intentionally delay the process for long periods in an effort to block the permit.

44. *The applicant should be required to install a tall gameproof fence extending from Orea Creek to Bear Canyon (on both sides of I-90) to prevent grizzly bears and other animals from being killed on the highway.*

RESPONSE: We do not believe that the zoo will serve as an attractant to wild animals. Additionally, such a fence would block all normal animal migration in the area. Even if it were a good idea, the applicant does not own any of the land involved and would be prohibited from constructing such a fence.

45. *No billboards should be allowed.*

RESPONSE: We lack the authority to regulate.

46. *Earthen berms tall enough to hide the facility should be required.*

RESPONSE: There is insufficient space between the fence and the property boundary to construct such a berm.

47. *A stream has been buried in a culvert without the required 310 permit.*

RESPONSE: The Conservation District field inspection team conducted an inspection of the site. Due to snow cover they were unable to determine if the stream was intermittent or perennial. If the stream is intermittent, no permit is required. They will check again after spring snowmelt. If the stream is perennial, they will require the applicant to obtain a permit.

48. *Traffic could back up onto the highway while waiting at the entrance booth.*

RESPONSE: We agree. We have added language to the agreement requiring that the ticket booth be situated further back in the interior of the property to insure that entry traffic does not back up onto the highway.

49. *Bears require "behavioral enrichment" (things to climb on, playthings, and other diversions).*

RESPONSE: While it is questionable whether we can mandate such equipment, we have discussed this issue with the applicant, who has stated that he is planning to install natural behavioral enrichment diversions for the bears.

50. *The zoo might scare horses that are being ridden along the frontage road, resulting in injury to the riders.*

RESPONSE: There are numerous conditions that may occur along a public highway that might startle some horses (large trucks, snowmobiles, dogs, pastured llamas, etc.). A permit cannot be denied because the permitted activity could startle a horse.

51. *Additional specifications are needed regarding the generator.*

RESPONSE: We agree that some clarification regarding the electrical system is in order. It should be noted that electric fences draw very little power. The backup system can be a relatively small generator or even a battery system.

52. *The public should be allowed to comment on the contingency plan for escaped animals.*
RESPONSE: We will provide a copy of this plan to anyone who is interested and we will consider any comments that we receive.
53. *The trees that have been planted are too small.*
RESPONSE: We agree that the size of the trees needs to be addressed. Additional stipulations regarding this issue have been added.
54. *The site is a wildfire zone.*
RESPONSE: There is a possibility of wildfires in virtually any rural setting. The area surrounding the site is nonforested, which would minimize the intensity of a fire. We have also implemented an evacuation plan to remove the bears in the event of any type of natural disaster.
55. *Seeing docile zoo grizzlies could lead children to assume wild grizzlies are safe to approach.*
RESPONSE: All zoos display wild animals in artificially small spaces for public viewing. Animals that spend their lives in close proximity to humans acquire an unnatural complacency around people. Seeing animals in zoos has not historically resulted in reckless behavior by customers who may later see animals in the wild.
56. *The department needs to require the applicant to post a bond to take care of problems that may arise if the business fails.*
RESPONSE: We lack the authority to regulate.
57. *The zoo is a good thing. It gives people a chance to see bears; and, the applicant should be given a chance to start a business.*
RESPONSE: No comment required.
58. *The applicant won't be able to remove the snow from the moats in the winter.*
RESPONSE: As stated in the Memorandum of Agreement, no bears can be placed in the outdoor viewing pen unless the moat is cleared of snow.
59. *What action will be taken if there are a lot of road kills or train kills?*
RESPONSE: We do not feel that this facility will result in additional animal deaths. Should a problem arise, which can be attributed to this facility, we will consider adding such additional regulations as are necessary to alleviate the problem.
60. *Trees planted in January will probably die. You need to include a requirement that the trees must be kept alive.*
RESPONSE: The current regulations require the applicant to plant and maintain the trees.

Final Environmental Assessment for Montana Grizzly Encounter, Inc. Roadside Zoo and Menagerie Permit

The Draft EA and this Decision Notice will serve as the final document with the following exceptions. Based on comments received from the public, we have amended the Memorandum of Agreement to include:

- A contingency plan for escapes and accidents;
- Bear-proof dumpsters;
- Anthelmintic treatment (worming) requirements;
- A requirement for employees to carry pepper spray;
- Some specifications for the denning area;
- A requirement to relocate the ticket booth;
- An electrical inspection of the backup system for the electric fence;
- Minimum tree size; and,
- A pond wastewater dispersal requirement.

Decision

Based on the information in the Draft EA, it is my decision to proceed with the proposed action with amendments. The proposed action is to issue a zoo and menagerie permit for the Montana Grizzly Encounter, Inc. The amendments to the proposed action are in the Memorandum of Agreement as summarized previously in this notice. The issuance of this permit is subject to final inspection upon completion of the project.

Based on the analysis in the Environmental Assessment and applicable laws, regulations and policies, I have determined that this action will not have a significant effect on the natural or human environment. Therefore, an Environmental Impact Statement will not be prepared. If you have questions regarding this decision notice, please contact me at (406) 994-4042, 1400 South 19th Avenue, Bozeman, MT 59718, or at pflowers@montana.edu.



Patrick J. Flowers
Region Three Supervisor

MEMORANDUM OF AGREEMENT

The Montana Fish, Wildlife & Parks (hereinafter known as "MFWP") and Montana Grizzly Encounter, Inc., represented by Casey Anderson (hereinafter known as "Applicant") enter into this agreement. The following stipulations are conditions to receiving the Zoo and Menagerie Permit.

- 1 Applicant shall keep a maximum of three brown bears.
- 2 Applicant will obtain written authorization from MFWP before introducing any bear.
- 3 Applicant agrees to construct an outside perimeter fence incorporating the following minimum design specifications:
 - a) ten-foot high chain link fence (or acceptable equivalent), with the chain link beginning six inches below ground and topped with electric wire. It shall enclose all the facilities that contain live bears; and,
 - b) this perimeter "property line" fence shall include enough gates to allow any wild bear that breaches the "property line" fence to be safely driven out of the service yard without being handled.
- 4 Applicant shall construct an inner wall of concrete 12 feet tall, which shall include an inward slope to prevent climbing. An electric wire shall be installed near the top of the fence. The fence shall extend a minimum of two feet, six inches below the ground. The fence shall be constructed in accordance with the engineer's plans as shown in Attachment 5. The concrete footing for the wall shall extend 30" inside the wall to act as a dig-out curtain.
- 5 The viewing portion of the inner fence shall consist of a concrete moat 12 feet wide and 12 feet deep, with vertical sidewalls. An electric wire shall run along the interior top edge of the moat, at a height of 16 inches (additional wires may be required if needed to prevent bear encroachment to the edge of the moat). A barrier shall be placed on the viewing side of the moat to keep viewers back from the moat (see Attachments 4 and 6).
- 6 During the winter, no bears shall be permitted in the outside viewing area unless the snow and ice have been removed from the inside of the interior fence for a distance of at least ten feet. Snow must also be cleared from the moat prior to the release of the bears into the pen.

- 7 A working generator or a recharging battery system shall be installed and maintained, which automatically activates during a power failure. A power failure alarm shall also be installed. The backup electrical system shall be inspected and approved by a licensed electrician.
- 8 All customer parking shall be in the enclosed parking lot. No on-street parking shall be permitted. The ticket booth shall be moved back from the highway at least five car lengths to ensure that customers waiting to enter will not be forced to wait in line in the road. If more than five cars are backed up, traffic shall be waved through.
- 9 Applicant shall provide proper, accurate, and biologically correct education and interpretation materials pertaining to brown bears, their habitats, and their natural roles in the Yellowstone ecosystem. Accurate information will also be provided to educate patrons as to the safest and most responsible manner of viewing and respecting wild bears. These efforts will be coordinated with MFWP, Yellowstone Ecosystem Subcommittee of the Interagency Bear Committee, and/or their Information and Education Subcommittee, and other professional educators and wildlife biologists.
- 10 Applicant shall provide security, appropriate diet, antihelminthic treatments and competent management and veterinary staff to ensure proper husbandry and medical care of brown bears, using the American Association of Zoological Parks and Aquariums' accreditation and minimum care standards as guidelines. Applicant shall consult with the Department about the best methods for treating or destroying sick or injured bears.
- 11 Applicant shall ensure that odors and other aspects that have the potential to attract wild bears are minimized or eliminated. This includes:
 - a) housing all captive bears in enclosed den buildings during the night;
 - b) conducting the primary feeding of all captive bears in enclosed den buildings;
 - c) ensuring proper sanitation in the den buildings;
 - d) keeping outdoor bear enclosure and pond clean of feces, urine concentrations, and aromatic food scraps;
 - e) keeping food and garbage unavailable to wild bears through the use of bear-proof dumpsters; and,
 - f) spaying/neutering all captive female bears older than two years of age upon arrival, before they are allowed out-of-doors.

- 12 Applicant shall prevent the breeding of captive grizzly bears. Captive male bears shall be sterilized upon arrival, before they are introduced into the general captive population. Female bears will also be sterilized, as stated above.
- 13 Applicant shall undertake the best efforts to minimize conflicts with wild bears, with respect to the care of captive bears and the design, operation, and maintenance of the facility in a manner described by MFWP, so as not to diminish the success of ongoing grizzly bear recovery programs. If, as a result of problems that occur that are not resolved to the satisfaction of MFWP, it is determined that the facility is responsible for attracting wild bears, and as a consequence, a wild bear becomes a "nuisance bear" that must be removed from the wild, the facility agrees to take whatever measures are deemed necessary to rectify those problems, as required by MFWP. The facility acknowledges that the same solution may become necessary if any captive brown bears escape and become "nuisance bears" as a result of unresolved problems at the facility. The facility further acknowledges that if noncompliance with the conditions in this agreement results in problems that are not resolved to the satisfaction of MFWP, it may be necessary for MFWP to revoke applicant's roadside menagerie permit and to require removal of the bears held within the facility.
- 14 Applicant shall cooperate with, and reimburse MFWP reasonable and mutually agreed upon costs directly associated with, the agency's capture or destruction of a bear that escapes or a wild bear that enters the facility. A clear contingency plan will be developed by the facility that outlines the specific coordination actions that will occur between the facility and MFWP if such events occur. A contingency plan for such events that meets the approval of MFWP must be developed prior to the facility's receiving authorization to hold grizzly bears.
- 15 Applicant shall abide by all applicable State, Federal, and Canadian laws and requirements pertaining to buying, selling, or transporting grizzly bears.
- 16 Applicant shall permanently and individually mark all captive bears for identification in accordance with Montana State Law [Section 87-1-231, MCA, Title 87].
- 17 Applicant shall assume all financial liabilities and responsibilities for the recapture of, and any damages that may be caused by, any bear that escapes, in accordance with Montana State Law [Section 87-1-233, MCA, Title 87].

- 18 Applicant shall walk the concrete fence and moat each day prior to turning out the bears to check for security, snow accumulation, and possible vandalism.
- 19 Applicant shall immediately report any escape or bear-related injury to any customer or employee.
- 20 The facility agrees to on-site inspections by MFWP on an announced or unannounced basis.
- 21 Applicant shall have a large caliber rifle, pepper spray, and a tranquilizer gun on the premises at all times in case of an emergency. Employees shall carry pepper spray at all times.
- 22 The electric gates shall be kept shut at all times except during the entrance or exit of vehicles.
- 23 Glass in the viewing windows shall be a minimum of two-inch laminated glass.
- 24 When customers are viewing the bears, at least one employee shall be present in an area where she or he may observe the customers.
- 25 At points where the concrete wall meets the moats, barriers will be provided to ensure that the bears are unable to maneuver around the wall. Such barriers are subject to MFWP approval.
- 26 A row of trees shall be planted and maintained along the northeast perimeter that faces I-90. They shall be arranged to minimize the visibility of the bears from the highway. The location of the trees shall be subject to MFWP approval. the trees shall be a minimum of twelve feet tall.
- 27 The pond shall be lined with an impervious material.
- 28 Each wire at the top of the chain link perimeter fence shall be individually charged.
- 29 The moat will have a drain in the bottom or other means of pumping out accumulated water for cleaning. Discharged pond water shall be used for irrigation inside the facility

- 30 The side of the visitor center that forms a portion of the containment wall shall be constructed of concrete or similar bear-proof material. It shall be 12 feet tall and have an electrical wire running along the interior edge in the same manner as the rest of the fence.
- 31 At any time the facility has bears in site, there shall be a caretaker present trained in the handling of bears and in the use of the firearm, pepper spray, a tranquilizer gun, and other emergency procedures.
- 32 Applicant will purchase and maintain liability insurance as required in A.R.M. 12.6.1308.
- 33 Applicant will, additionally, comply with all laws and rules for operating a roadside zoo and menagerie found in M.C.A. 87-4-801 through 87-4-808 and A.R.M. 12-6-1305 through 12.6.1309.
- 34 The denning cages (minimum-2) shall be constructed of steel bars (not less than $\frac{3}{4}$ inch diameter that will be securely attached to the floor and ceiling. A secured passageway shall be constructed from the outdoor viewing area to the individual dens.

It is mutually agreed that failure to comply with the terms and conditions of this agreement by any of the parties hereto may result in the termination of this agreement and revocation of authorities issued for the holding of bears at the facility. This agreement may be amended upon written consent of all parties hereto.

Signed,

Attest

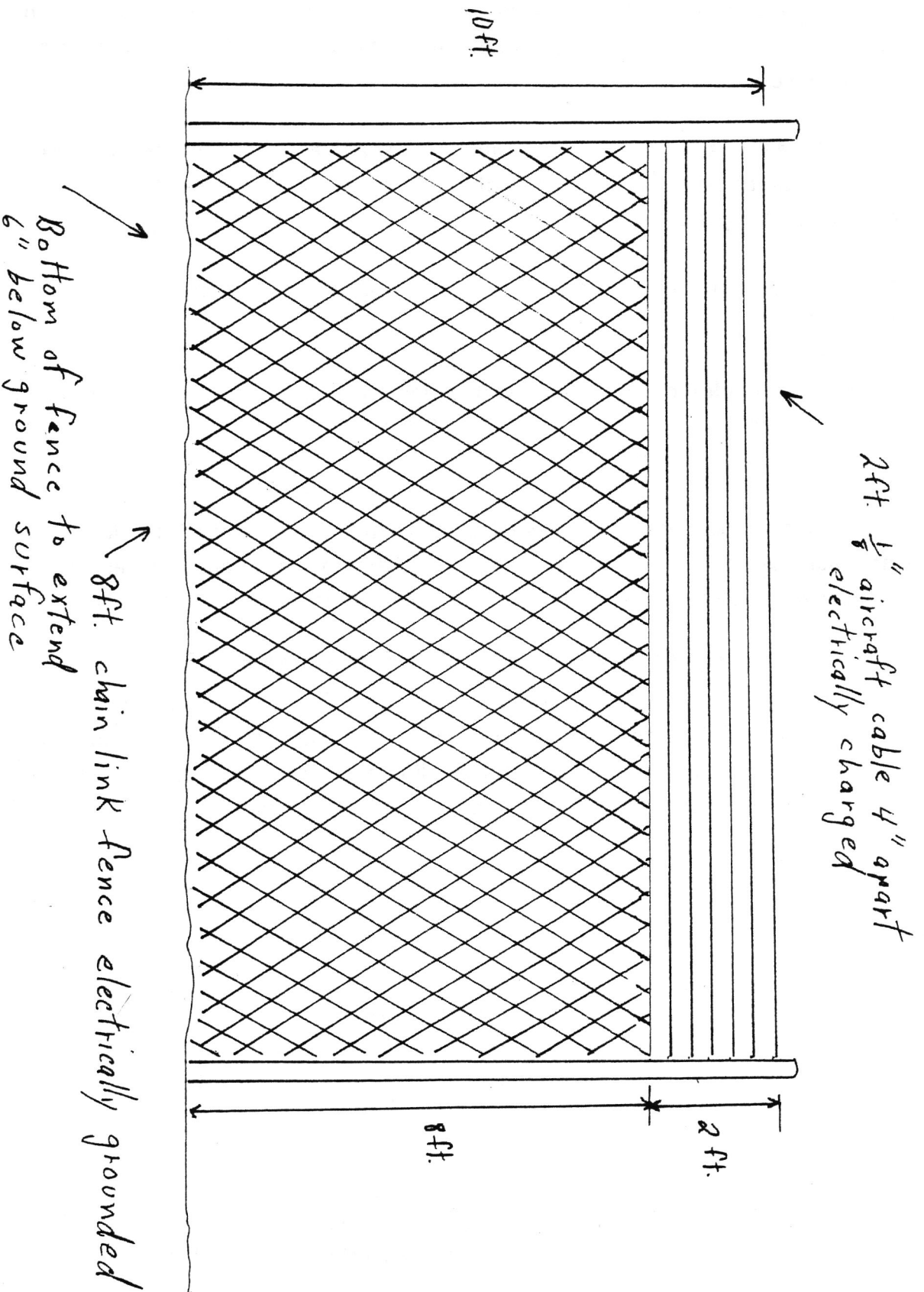
Patrick J Flowers
Region Three Supervisor
Montana Fish, Wildlife & Parks

Attest

Applicant Representing
Montana Grizzly Encounter, Inc.

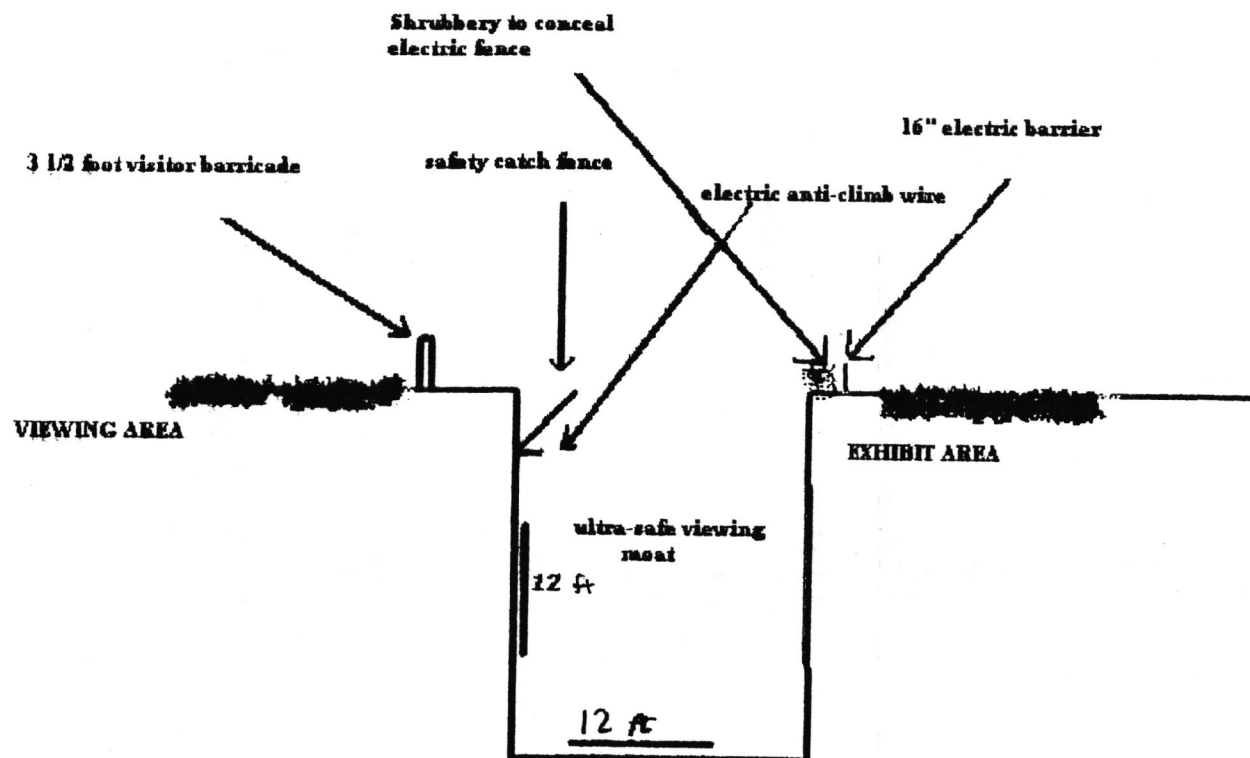
Exterior Fence

Attachment 3

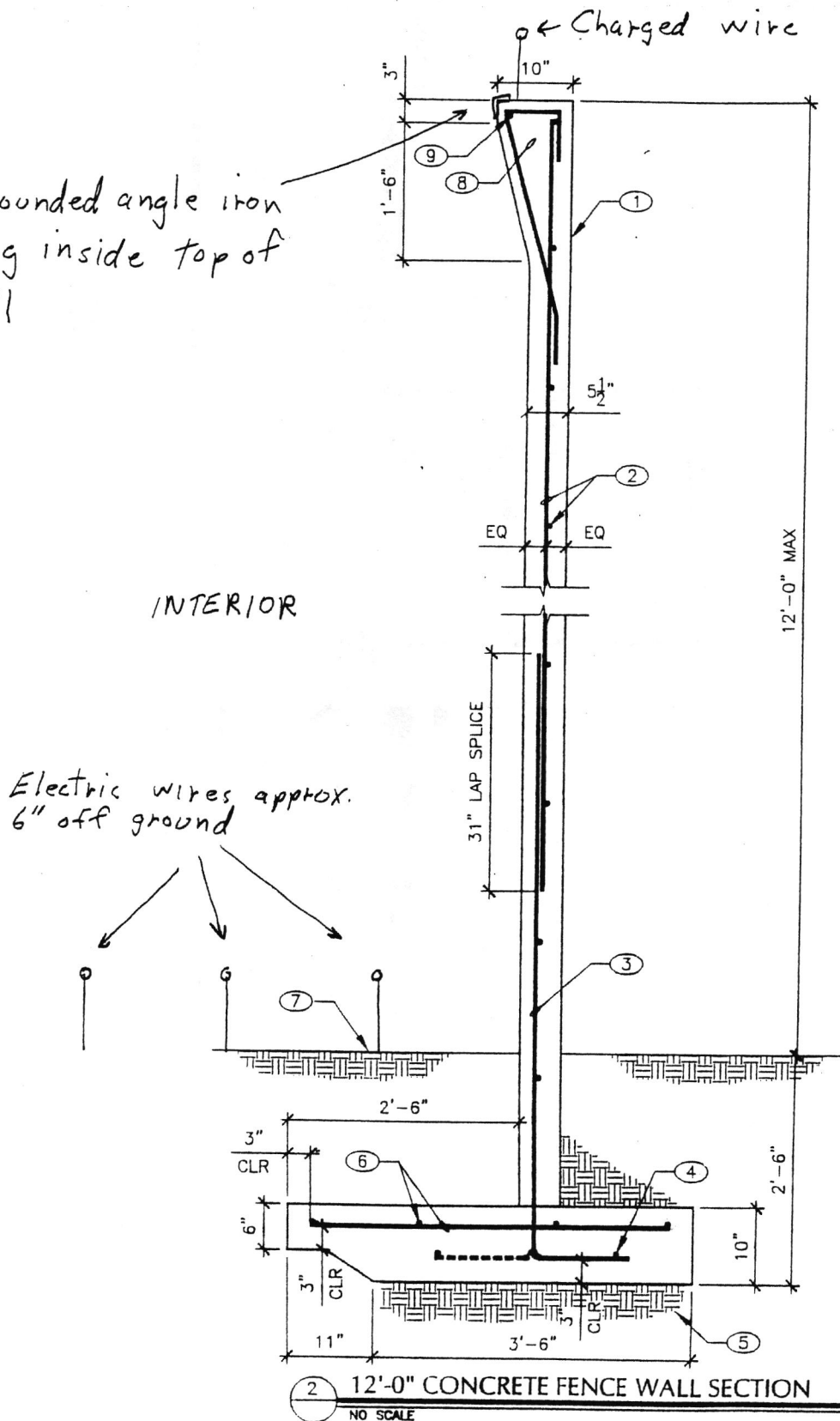


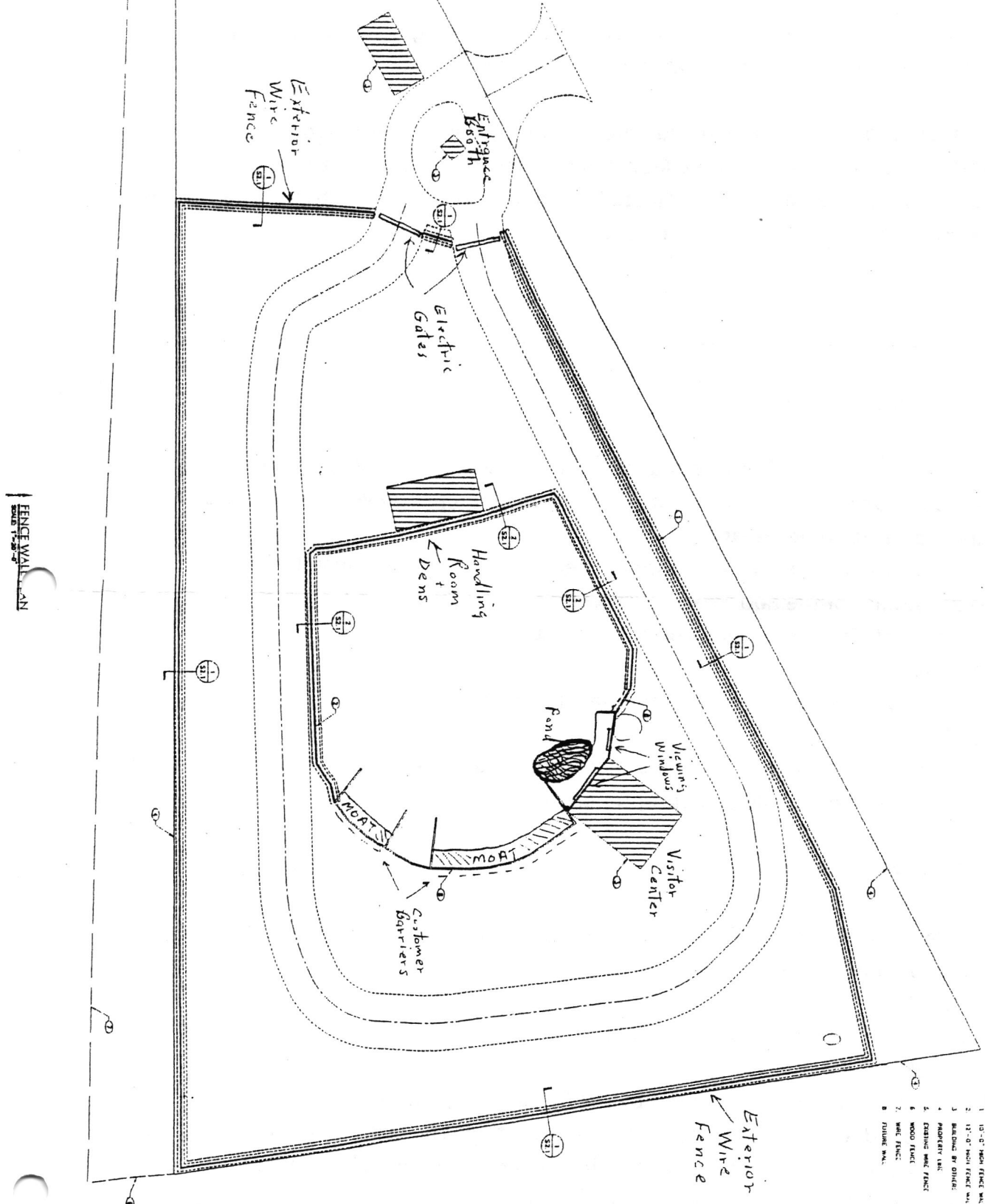
MOAT

Attachment 4



- grounded angle iron
along inside top of
wall





- LEGEND**
- 1. 12'-0" HIGH FENCE WALL
 - 2. 12'-0" HIGH FENCE WALL
 - 3. BUILDING BY OTHERS
 - 4. PROPERTY LINE
 - 5. EXISTING POLE FENCE
 - 6. WOOD FENCE
 - 7. WIRE FENCE
 - 8. FUTURE WALL

<p>DATE: 11/11/03</p> <p>BY: [Signature]</p> <p>CHECKED: [Signature]</p> <p>APPROVED: [Signature]</p>	<p>BEAR WALL</p> <p>JOHN R. PETERSON PROPERTY</p> <p>JACKSON CREEK EXIT OF I-90</p>		<p>4043 INDEPENDENT EAST, STE A</p> <p>BOULEVARD, DALLAS, TEXAS 75201</p> <p>Phone: (214) 354-0800</p> <p>Fax: (214) 353-9702</p>
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CONTINGENCY PLANS

A plan pursuant to the Memorandum of Agreement concerning holding and displaying grizzly bears at the Montana Grizzly Encounter, Inc. zoo.

This Contingency Plan is developed and entered into by the Montana Department of Fish, Wildlife & Parks [Department] and the Montana Grizzly Encounter, Inc. zoo [Zoo] for the purpose of outlining the specific coordinated actions that will occur between the Zoo and the Department in the event of a specific situation.

EVENTS

INJURED OR SICK BEAR IN THE ZOO

ACTION:

- Minor Injury/Illness:* Zoo veterinarian provides care; no notification necessary
- Serious Injury/Illness* (risk to animal; life-threatening): Zoo veterinarian provides care: notification necessary
- Need to Destroy Animal:* Appropriate agencies and the Zoo consult; the responsibility of the Zoo
- Disposal of Carcass:* Responsibility of the Zoo

NOTIFICATION:

The Zoo will immediately notify the Department

INVESTIGATION:

The incident will be investigated by the appropriate agencies and all necessary Department reports will be appropriately filed

DEATH OF A BEAR IN THE ZOO

ACTION:

The carcass will be safeguarded by the Zoo; disposal of the carcass is the responsibility of the Zoo

NOTIFICATION:

The Zoo will immediately notify the Department

INVESTIGATION:

The incident will be investigated by the Department and the Zoo; a Board of Review will be conducted with appropriate representation. The cause will be determined, and measures to prevent similar and future incidents will be identified; all necessary Department reports will be appropriately filed

ESCAPE OF A BEAR FROM THE ZOO

ACTION:

Immediately recapture and return the bear to the Zoo—responsibility of the Department; if capture is impossible within a reasonable period of time, the bear may be destroyed by the Department; disposal of the carcass is the responsibility of the Department

All remaining bears in the enclosure from which the escape occurred will be held in their den, until determination of the source of escape, and appropriate corrective measures are taken to prevent further escapes

NOTIFICATION:

The Zoo will immediately notify the Department and the Gallatin County Sheriff's Office

INVESTIGATION:

The incident will be investigated by the Department and the Zoo; a Board of Review will be conducted with appropriate representation

The cause will be determined, and measures to prevent similar and future incidents will be identified

ENTRY (Fall) OF PERSON INTO ENCLOSURE MOAT

ACTION:

The Zoo staff will immediately summon emergency assistance, and enter the moat to administer initial aid; bears will be immediately returned to their den

NOTIFICATION:

The Zoo will immediately notify the Department

INVESTIGATION:

The incident will be investigated by the Department and the Zoo; a Board of Review will be conducted with appropriate representation

The cause and the means of preventing similar and future incidents will be determined and all necessary Department reports appropriately filed

RESPONSIBILITIES

Though all actions in the event of any incident will be coordinated, the agency basically responsible for the management of free-roaming bears (wild or escaped captive) is Montana Department of Fish, Wildlife & Parks (bears in the State of Montana, regardless of origin).

EMERGENCY EVACUATION OF THE BEARS FROM THE ZOO DUE TO AN UNANTICIPATED EMERGENCY (Fire, Earthquake, Train Derailment, etc)

ACTION:

The Zoo shall keep on site, at all times, a vehicle or trailer with a confinement container capable of securing up to three grizzlies (either sedated or not). If the trailer option is utilized, there shall be a vehicle equipped to tow the trailer on site at all times. In the event of an emergency requiring an evacuation, the bears shall be loaded and removed from the site.

NOTIFICATION:

The Zoo shall immediately notify the Department in the event of an evacuation

INVESTIGATION:

The Department may investigate any forced bear evacuation if circumstances warrant

NOTIFICATION LIST:

In the event of an emergency, the following numbers may be used for notification:

Gallatin County Sheriff.....911

Department of Fish, Wildlife & Parks (8am—5pm, Monday—Friday).....994-4042

After Hours:

Jim Heck..... 587-4648

Mick Chesterfield... 284-3525

Joe Knarr..... 582-8752

Kevin Frey..... 587-2864

PLAN REVISION

This plan may be revised as deemed necessary, by consultation of all responsible parties. The Zoo will be immediately notified of all personnel and/or telephone number changes affecting the notification list.

Montana Grizzly Encounter, Inc. Representative

Date

Pat Flowers, Regional Supervisor, Bozeman
Montana Fish, Wildlife & Parks

Date